

### **REMARKS/ARGUMENTS**

This Amendment is in response to the Office Action mailed December 16, 2008. Claims 18-21 were pending in the present application. This Amendment amends claim 18, without adding or canceling any claims, leaving pending in the application claims 18-21.

Reconsideration of the rejected claims is respectfully requested.

#### **I. Rejection under §101**

Claims 18-19 and 21 are rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. Applicants respectfully submit that claim 18 has been amended to further clarify that the reviewing and classifying steps are performed by a second inspection machine operable to detect images to be reviewed with a first image magnification. Further, the defects are first detected using a first inspection machine operable to detect images of the defects with a second (lower) image magnification. Using such a process, a first inspection machine images defects at a relatively low magnification, and a lower number of defects can be determined to be classified by the second inspection machine at a higher magnification. It is respectfully submitted that such process is thus tied to a statutory class. Applicants therefore respectfully request that the §101 rejections with respect to the claims be withdrawn.

#### **II. Rejection under 35 U.S.C. §102**

Claims 18-21 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by *Straforini* (US 6,092,059). Applicants respectfully submit that *Straforini* does not disclose each element of these claims.

For example, Applicants' claim 18 as amended recites a method of classifying defects, comprising the steps of:

determining a sampling rate of defects to be reviewed by a second inspection machine, operable to detect images of defects to be reviewed with a first image magnification, among defects detected by a first inspection machine, operable to detect images of the defects with a second image magnification, the second image magnification being lower than the first image magnification;

reviewing, with said second inspection machine, defects sampled from said defects detected by said first inspection machine in accordance with said determined sampling rate; and

classifying, with said second inspection machine, said reviewed defects with a second defect classifier corresponding to said second inspection machine, the reviewed defects being captured with the higher first image magnification;

wherein in the step of determining, said sampling rate is determined for each defect class classified by a first defect classifier corresponding to said first inspection machine to reduce a number of defects to be reviewed by the second inspection machine among the defects detected by the first inspection machine.

Such limitations are not disclosed by *Straforini*. It is respectfully submitted that the rule-based classifier 54, 58, and 60 and training-based classifier 56 written in FIG. 5B of *Straforini* are not the same as the first or second “inspection machine” recited in Applicants’ claim 18. The inspection machines recited in claim 18 as amended are actual machines operable to image defects at different magnifications. Such machines can include an optical inspection machine or SEM (scanning electron microscope). The rule-based classifier and training-based classifier in *Straforini* are purely software algorithms. Further, the rule-based classifier and training-based classifier of *Straforini* do not change image magnifications for imaging defects, or disclose advantages to utilizing such magnifications for purposes as recited in Applicants’ claim 18, or the claims that depend therefrom.

As *Straforini* does not disclose or suggest such limitations, *Straforini* cannot anticipate these claims. Applicants therefore respectfully request that the anticipation rejections with respect to these claims be withdrawn.

### **III. Amendment to the Claims**

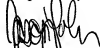
Unless otherwise specified or addressed in the remarks section, amendments to the claims are made for purposes of clarity, and are not intended to alter the scope of the claims or limit any equivalents thereof. The amendments are supported by the specification and do not add new matter.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,



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